TAXPAYERS PROTECTION ALLIANCE

August 16, 2011

Federal Communications Commission
445 12th Street SW,
Washington, DC 20554

The Taxpayers Protection Alliance would like to take this opportunity to urge the Federal Communication Commission (FCC) to recognize that Section 652 cross-ownership ban should not apply to cable operators and competitive local exchange carriers (CLECS).

The Telecommunications Act of 1996 was enacted to bring in new era of competition among providers of telecommunications services, including through deregulation. The purpose was to promote competition for local telephone services on incumbent local exchange carriers (LECs), including the regional Bells, while authorizing the Bells to provide long distance services. As Congress anticipated, there was an initial surge of investment as hundreds of new CLECs launched local service offerings for residential and business customers in the years following the new law. Most of those companies have since failed while local telecommunications competition has stalled in key industry segments.

Even though CLECs possess the operational and marketing experience to provide high-quality local exchange services, many do not have the financial resources to compete effectively. Over the years, cable operators have become strong competitors in the residential arena by building on their extensive network facilities. The cable operators have only made limited inroads in the business services marketplace. This gives a huge potential for CLECs and cable operators to forge smart and tactical combinations to compete more effectively.

Section 652 imposes cross-ownership restrictions on cable operators and local exchange carriers, barring cross-ownership unless the parties obtain a waiver from the FCC and the approval of each local franchising authority ("LFA"). The need to obtain approval from every LFA in the parties' overlapping footprint is not efficient. It also doesn't make sense because one or more LFA could hold up a transaction for any reason.

Section 652 was intended to prevent incumbent LECs, which owned the telephone lines, and traditional cable operators, which owned the cable lines—from merging and thereby controlling the only two wires to a customer's premises. There is no indication that Congress intended to restrict transactions between cable operators and the CLECS, especially when the CLEC does not own residential last-mile facilities.

Taxpayers stand to benefit tremendously from transactions between CLECs and cable operators. Stronger competition among providers of telephone services will lead to lower prices, better service quality, and increased innovation—all of which benefit taxpayers. By contrast, taxpayers are harmed by regulatory barriers that impede deals that otherwise would spur competition. The FCC therefore should seek to maximize competition and should ensure that it does not impair pro-consumer deals through artificial regulatory constructs.

The FCC should state that Section 652 should not apply to Cable/CLEC transactions or refrain from enforcing the restriction. There have been many technological and consumer changes since the Act was passed in 1996 and the FCC needs to recognize that ever-changing landscape. A light regulatory touch always helps the economy. Consumers will benefit by allowing companies merge that will be bring better service to customers.

Sincerely,

David Williams
President